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May 9, 2012

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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains a pursuit of County position on legislation related to local government bankruptcy protection, and an update on legislation of County interest relating to requirements for county assessors to furnish estimates of assessed valuation of property.

Pursuit of County Position on Legislation

AB 1692 (Wieckowski), which as amended on May 2, 2012, would revise the existing neutral evaluation option for local governments prior to seeking Federal Chapter 9 bankruptcy protection.

AB 506 (Chapter 675, Statutes of 2011), also authored by Assembly Member Wieckowski, established a pre-bankruptcy process which allows a local government to:

- 1) participate in a neutral evaluation process with interested parties to resolve disputes;
- or 2) adopt a resolution by a majority vote of the governing board, at a noticed public hearing, which includes a finding that the financial state of the local government jeopardizes the health, safety, or well-being of the residents of the area absent bankruptcy protections, prior to filing for bankruptcy protection.

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Initially, AB 506 would have required local governments to engage in a neutral evaluation with a mediator prior to filing for bankruptcy protection. AB 506 was opposed by the County; the California State Association of Counties; League of California Cities; Urban Counties Caucus; Regional Council of Rural Counties; California Chamber of Commerce; California Special Districts Association and other entities on the basis that the bill would have forced all parties into a mediation process, give the mediator extraordinary powers, create criteria and conditions biased against local governments to the benefit of labor interests and insert the State into local affairs.

As enacted in 2011, AB 506 is a compromise negotiated by the opponents of the measure, the Brown Administration, and Senator Lois Wolk, Chair of the Senate Governance and Finance Committee which established a confidential mediation process to allow local governments to work with creditors and other interested parties to restructure debt and expenses. Upon reaching this compromise, the opponents of AB 506, including the County, removed their opposition to the bill which was signed by Governor Brown on October 9, 2011 and became effective on January 1, 2012. To date, two cities, Stockton and Mammoth Lakes, have opted to engage in the neutral evaluation process to address the cities' fiscal issues.

AB 1692 proposes to revise the neutral evaluation process established under AB 506 to: 1) redefine the neutral evaluation to be a dispute resolution process imposed upon parties in which the neutral evaluator would consider the arguments and information presented by the parties and offer a non-binding opinion to assist in the resolution of the dispute; 2) allow the neutral evaluator to toll the current 60-day evaluation time limit upon finding that the conduct of the local government entity or interested parties prevented the parties from effectively proceeding in the neutral evaluation process; and 3) allow the neutral evaluator to request and control an independent investigation to obtain financial information and explore other areas of recovery.

The author of AB 1692 indicates that this measure seeks to clarify the neutral evaluation process established by AB 506 regarding uncertainty as to how the initial 60-day window is counted and whether or not the neutral evaluator can require all parties to provide necessary access to information before the 60-day process begins.

The opponents indicate that AB 1692 is premature and would alter the neutral evaluation process negotiated in AB 506. The League of California Cities opposes the bill stating it would give outside mediators too much power and make it possible for unions and creditors to prolong the mediation process as cities run out of cash.

This office notes that language in AB 1692 regarding how the neutral evaluation process is initiated is inconsistent. One provision of the bill states that a local

government may initiate the neutral evaluation; however, another provision states that the neutral evaluation process is imposed. Further, in giving the neutral evaluator the authority to toll the time limit on the evaluation process, the bill does not specify how long the evaluator can toll the process. The bill appears to give the neutral evaluator additional power and allows the evaluator to act arbitrarily in deciding what conduct by a party is sufficient to invoke the toll.

With regard to allowing the neutral evaluator to request and conduct an independent investigation, this office notes that this could possibly lead to the neutral evaluator becoming an advocate for one side or the other rather than being a neutral mediator. The bill does not specify who would pay for the investigation or how the investigation would be completed; i.e., depositions, subpoenas, etc. The bill does not provide protections for parties subject to the investigation.

This office recommends an oppose position on AB 1692 because the bill would undermine the compromise reached in negotiating amendments to AB 506 to provide local control over fiscal issues for local governments seeking bankruptcy protection. Therefore, consistent with existing Board policy to oppose any abridgement or elimination of the Board of Supervisors' powers and duties unless the change promotes a higher authority of the Board, **the Sacramento advocates will oppose AB 1692.**

AB 1692 is sponsored by the author and supported by the California Professional Firefighters and the California Dispute Resolution Council. The measure is opposed by the: Association of Health Care Districts; California State Association of Counties; California Special Districts Association; City of Stockton; League of Cities; Regional Council of Rural Counties; and Urban Counties Caucus.

AB 1692 passed the Assembly Local Government Committee by a vote of 5 to 3 on April 25, 2012. The bill is awaiting a hearing in the Assembly Appropriations Committee.

Legislation of County Interest

AB 2210 (Smyth), which as amended on April 30, 2012, would require a county assessor, in cooperation with the tax collector, to estimate whether property valuations have decreased by 3 percent or more and, if so, require the assessor to issue a written report to the governing body within 30 days. The bill also would require the assessor to notify entities affected by the decrease in property valuation.

Existing law requires county assessors responsible for assessing property in a local taxing jurisdiction to, upon request of the governing body of that jurisdiction, excluding a

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school district, provide an estimate of the assessed valuation of property within the jurisdiction no later than May 15 of each year. The request for the estimate from the governing body to the assessor must be made by February 20 of each year, and the estimate must include the total of each of the items contained on the assessment roll as well as the estimated total valuation.

As amended, AB 2210 would add additional requirements to the reporting of the estimated valuation of property within a jurisdiction by the county assessor. Specifically, the bill would require the assessor to estimate whether property valuations have decreased by 3 percent or more within 30 days of receiving the request from the governing body of a local taxing jurisdiction. AB 2210 would further require the assessor to provide a written report to the governing body before the end of the 30 day period, if the assessor estimates a 3 percent or more decrease. Finally, the bill would stipulate that county assessors must notify the Department of Finance, board of supervisors, governing boards of cities, affected school districts and any other impacted entities of the decrease within 15 days of the 30-day notification to the governing body.

This office is currently working with the Assessor, Auditor-Controller, County Counsel and Treasurer and Tax Collector to determine the potential impact of the bill to the County.

There is currently no registered support for the bill on file. The measure is opposed by the Santa Clara County Assessor's Office.

AB 2210 passed the Assembly Local Government Committee by a vote of 9 to 0 on May 9, 2012. The bill now proceeds to the Assembly Appropriations Committee.

We will continue to keep you advised.

WTF:RA
MR:VE:KA:lm

c: All Department Heads
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